



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2013-0464; FRL-9950-49-Region 6]

#### **Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Interstate Transport of Air Pollution for the 2008 Ozone National Ambient Air Quality Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is disapproving the portion of a Louisiana State Implementation Plan (SIP) submittal pertaining to interstate transport of air pollution which will significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone National Ambient Air Quality Standards (NAAQS) in other states. Disapproval will establish a 2-year deadline, under Clean Air Act (CAA) Section 110(c), for the EPA to promulgate a Federal Implementation Plan (FIP) for Louisiana to address the CAA interstate transport requirements pertaining to significant contribution to nonattainment and interference with maintenance of the 2008 ozone NAAQS in other states, unless the EPA approves a SIP that meets these requirements. Disapproval does not start a mandatory sanctions clock for Louisiana.

**DATES:** This rule is effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2013-0464. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be

publicly available only in hard copy. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

**FOR FURTHER INFORMATION CONTACT:** Sherry Fuerst 214-665-6454,  
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**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” means the EPA.

## **I. Background**

This rulemaking addresses an infrastructure SIP submittal from the State of Louisiana addressing, among other things, the requirements of CAA section 110(a)(2)(D)(i)(I), also known as the good neighbor provision, with respect to the 2008 ozone NAAQS. The background for this action is discussed in detail in our June 7, 2016 proposal (81 FR 36496). In that action we proposed to disapprove the portion of the June 4, 2013 Louisiana SIP submittal pertaining to CAA 110(a)(2)(D)(i)(I) which requires that the State prohibit the interstate transport of air pollution which will significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in other states.

In proposing to disapprove the State’s SIP submittal as to the good neighbor provision, we noted two specific deficiencies in the Louisiana submission. First, Louisiana cited the State’s approved Clean Air Interstate Rule (CAIR) SIP as support for its conclusion that the State satisfied its section 110(a)(2)(D)(i)(I) obligation with respect to the 2008 ozone NAAQS. However, as explained in our proposal, CAIR was invalidated by the D.C. Circuit in *North Carolina v. EPA*, 531 F.3d 896 (2008). Even if Louisiana could rely on its CAIR SIP the modeling and rulemaking conducted for both CAIR, or its successor, the Cross-State Air

Pollution Rule (CSAPR), 76 FR 48208 (August 8, 2011) addressed the 1997 ozone NAAQS, not the more stringent 2008 ozone NAAQS at issue in this action. Because the Louisiana submittal addressed by this action concerns the State's interstate transport obligations for a different and more stringent standard (the 2008 ozone NAAQS), we stated it is not sufficient to merely cite to older EPA or state implemented programs as evidence of compliance with the current 2008 ozone NAAQS. Second, the State's submittal lacked any technical analysis evaluating or demonstrating whether emissions in Louisiana impacts air quality in another state. As such, we proposed that the submittal did not provide us with a basis to agree with the State's conclusion that the State already has adequate provisions in the SIP to address CAA section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS. We did not receive any comments regarding our proposal.

## **II. Final Action**

EPA is disapproving a portion of a June 4, 2013 SIP submittal from Louisiana pertaining to interstate transport of air pollution which will significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in other states. Disapproval will establish a 2-year deadline, under the CAA Section 110(c), for the EPA to promulgate a FIP for Louisiana to address the CAA interstate transport requirements pertaining to significant contribution to nonattainment and interference with maintenance of the 2008 ozone NAAQS in other states, unless the EPA approves a SIP that meets these requirements. Disapproval does not start a mandatory sanctions clock for Louisiana pursuant to CAA section 179 because this action does not pertain to a part D plan for nonattainment areas required under CAA section 110(a)(2)(I) or a SIP call pursuant to CAA section 110(k)(5).

## **III. Statutory and Executive Order Reviews**

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563:  
Improving Regulation and Regulatory Review*

This final action is not a “significant regulatory action” because it is not categorized as “significant” under section 3(f) of Executive Order 12866 and therefore was not submitted to the Office of Management and Budget for review.

*B. Paperwork Reduction Act (PRA)*

This final action does not impose an information collection burden under the PRA because it does not contain any information collection activities.

*C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action merely disapprove a SIP submission as not meeting the CAA.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*

This action does not have tribal implications as specified in Executive Order 13175. This action does not apply on any Indian reservation land, any other area where EPA or an Indian

tribe has demonstrated that a tribe has jurisdiction, or non-reservation areas of Indian country. Thus, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it merely disapproves a SIP submission as not meeting the CAA.

*H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

This rulemaking does not involve technical standards.

*J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*

EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. This action merely disapproves a SIP submission as not meeting the CAA.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the

rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR part 52**

Environmental protection, Air pollution control, Incorporation by reference, and Ozone.

Dated: July 29, 2016.

**Ron Curry,**

*Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart T – Louisiana**

2 Section 52.996 is revised to read as follows:

**§ 52.996 Disapprovals.**

(a) The portion of the SIP submitted on June 4, 2013 addressing Clean Air Act section

110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS is disapproved.

(b) [Reserved]

[FR Doc. 2016-19148 Filed: 8/11/2016 8:45 am; Publication Date: 8/12/2016]